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3 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

4 JANE DOE 1,

5  
6 Plaintiff,

7 v.

Civil Action No. 25-CV-2108 (RA)

8 TAL ALEXANDER,

9 Defendant.

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15 **PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT TAL**  
16 **ALEXANDER'S MOTION TO DISMISS AND MOTION TO STRIKE SCANDALOUS**  
17 **ALLEGATIONS FROM THE COMPLAINT**  
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22 **GRUENBERG KELLY DELLA**  
23 Michael DellaUniversita, Esq.  
24 700 Kochler Avenue  
Ronkonkoma, New York 11779  
25 631-737-4110  
26 *Counsel for Plaintiff*  
27  
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**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF IN OPPOSITION TO  
DEFENDANT TAL ALEXANDER'S MOTION TO DISMISS AND MOTION TO  
STRIKE SCANDALOUS ALLEGATIONS FROM THE COMPLAINT**

Plaintiff Jane Doe 1 ("Plaintiff"), by and through her undersigned counsel, Gruenberg Kelly Della, respectfully submits this Memorandum of Law in opposition to the Motion to Dismiss the Complaint and to Strike Scandalous Allegations from the Complaint filed by Defendant Tal Alexander (the "Defendant"). For the following reasons, Plaintiff respectfully requests that the Moving Defendant's motion be denied in its entirety. A proposed order is attached to the Declaration of Michael DellaUniversita ("Della Decl.") as Exhibit A.

**FACTUAL BACKGROUND**

Defendant's motion to dismiss and to strike portions of Plaintiff's Complaint is a misguided attempt to avoid accountability by distorting the factual and legal landscape of this case. Plaintiff's claims are neither time-barred nor "scandalous." Rather, they are grounded in traumatic lived experience, corroborated patterns of abuse, and a well-pleaded complaint that satisfies all legal standards. The motion should be denied in its entirety.

As detailed in Plaintiff's Complaint, attached hereto as Exhibit B, Plaintiff awoke in Defendant's Manhattan apartment, in his bed, disoriented and partially unclothed—without any memory of how she arrived there. This chilling moment was the culmination of a scheme to commit sexual violence.

Plaintiff first encountered Defendant at a high-profile celebration in New York City. The venue—Catch New York—was crowded with public figures and social elites, giving the impression of safety. Defendant used this setting, and the social capital it conveyed, to initiate contact and build trust. What followed was a calculated effort to groom and then rape Plaintiff.

On the night of the attack, Plaintiff met Defendant for dinner at Lure Fishbar and later visited the now-closed Provocateur nightclub. Despite Plaintiff's limited alcohol consumption—

no more than one or two drinks—she experienced sudden and extreme intoxication. Based on the circumstances and subsequent evidence, it is clear that Defendant drugged her. Her next recollection is waking up in physical pain in Defendant's bed, with clear signs that she had been vaginally penetrated. She was unable to consent to any sexual activity. What followed was equally harrowing. When Plaintiff tried to leave, Defendant physically overpowered her and raped her again, ignoring her verbal refusals.

These are not isolated allegations. Plaintiff's experience is tragically consistent with other reports of Defendant's conduct—revealing a disturbing pattern of sexual predation, coercion, and abuse of power. As a wealthy real estate mogul with significant public influence, Defendant had cultivated an image designed to disarm suspicion while perpetrating harm behind closed doors. The allegations contained in the Complaint are not “scandalous”—they are truthful and necessary to expose Defendant's modus operandi. Efforts to sanitize or silence these facts through a motion to strike are not only legally unfounded, but they are also a continuation of the very dynamics of silencing and intimidation that this lawsuit seeks to challenge. Likewise, Defendant's statute of limitations argument mischaracterizes the scope and intent of applicable law and disregards the authority of local governments to provide additional avenues of redress for survivors, particularly given the profound psychological barriers to disclosure that survivors of sexual violence routinely face. Defendant's motion should be denied.

## ARGUMENT

**I. THE COURT SHOULD DENY THE MOTION TO DISMISS**

### A. Legal Standard

In reviewing a motion to dismiss under Rule 12(b)(6), the Court “must construe the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff’s favor.” Goldstein v Pataki, 516 F.3d 50, 56 (2d Cir. 2008).

1 The complaint need only “contain sufficient factual matter, accepted as true, to ‘state a claim to  
2 relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl.  
3 Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff  
4 pleads factual content that allows a court to draw the reasonable inference that the defendant is  
5 liable for the misconduct alleged.” Iqbal, 556 U.S. at 678.

7 “When considering a preemption argument in the context of a motion to dismiss, the factual  
8 allegations relevant to preemption must be viewed in the light most favorable to the plaintiff. A  
9 district court may find a claim preempted only if the facts alleged in the complaint do not plausibly  
10 give rise to a claim not preempted.” Galper v. JP Morgan Chase Bank, N.A., 802 F.3d 437, 444 (2d  
11 Cir. 2015).

12  
13 **B. The Victims of Gender-Motivated Violence Protection Law Provides A**  
14 **Critical Avenue for Justice**

15 Following the U.S. Supreme Court’s decision in United States v. Morrison, 529 U.S. 598  
16 (2000)—which struck down critical portions of the Violence Against Women Act (“VAWA”)—  
17 the New York City Council took bold, decisive action. Refusing to let survivors be left without a  
18 remedy, the Council enacted the Victims of Gender-Motivated Violence Protection Law  
19 (“VGMVPL”) to ensure that those harmed by gender-based violence retained the right to seek  
20 justice. N.Y.C. Admin Code. § 10-1102. The VGMVPL provides for a civil cause of action for  
21 “any person claiming to be injured by a party who commits, directs, enables, participates in, or  
22 conspires in the commission of a crime of violence motivated by gender. Id. § 10-1104.  
23 Importantly, the VGMVPL defines “crime of violence” broadly to include not only acts resulting  
24 in criminal prosecution, but also those posing serious risks of harm regardless of whether charges  
25 were brought:  
26

27 An act or series of acts that would constitute a misdemeanor or felony against the person as  
28 defined in state or federal law or that would constitute a misdemeanor or felony against  
property as defined in state or federal law if the conduct presents a serious risk of physical

injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.

Id. § 10-1103. Recognizing that gender-based violence is often fueled by power, control, and animus, the “crime of violence motivated by gender” is a “crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim’s gender.” Id. Survivors are entitled to a full spectrum of relief—compensatory and punitive damages, declaratory and injunctive relief, attorneys’ fees, and any other remedy a court finds appropriate. Id. Further, the VGMVPL allowed for actions to be commenced within seven years after the alleged crime of violence motivated by gender. Id. § 10-1105(a).

In 2022, the City Council again demonstrated its commitment to survivor justice by amending the VGMVPL to revive previously time-barred claims, permitting survivors to file suit between March 1, 2023, and March 1, 2025 – stating:

Notwithstanding any provision of law that imposes a period of limitation to the contrary, any civil claim or cause of action brought under this chapter that is barred because the applicable period of limitations has expired is hereby revived and may be commenced not earlier than six months after, and not later than two years and six months after, September 1, 2022.

City of New York, L.L. 21/2022 § 2. This revival provision reflected the Council’s recognition that trauma often delays disclosure, and that justice delayed should not be justice denied. With this provision, the City of New York exercised its authority to ensure that survivors of gender-motivated violence committed within its jurisdiction have a path forward in their pursuit of accountability and healing.

**C. The Child Victims Act and Adult Survivors Act Cannot Plausibly Be Read as Limiting the Protections Provided by the VGMVPL**

In the years following the enactment of the VGMVPL, New York State took additional historic steps to correct long-standing injustices against survivors of sexual abuse. In 2019, the State Legislature passed the Child Victims Act (“CVA”), creating a revival window for survivors



1 of childhood sexual abuse whose claims had previously been time-barred under outdated statutes  
2 of limitations. CPLR § 214-g. The CVA opened a one-year lookback period—later extended due  
3 to the COVID-19 pandemic—allowing survivors previously unable to prosecute their claims to  
4 finally assert their rights in court. Id. The CVA window closed on August 14, 2021. Id.

5  
6 In May 2022, recognizing that adult survivors face similar barriers to disclosure, the State  
7 Legislature enacted the Adult Survivors Act (“ASA”), mirroring the CVA in structure and intent.  
8 See CPLR § 214-j. The ASA opened a one-year window, from November 2022 to November 2023,  
9 for adult survivors to file civil claims that had previously expired under New York’s statute of  
10 limitations. Id.

11  
12 Significantly, these laws were not passed quietly—they were accompanied by a resounding  
13 legislative mandate that justice delayed should no longer be justice denied. Governor Kathy  
14 Hochul, upon signing the ASA, stated:

15 Today, we take an important step in empowering survivors across  
16 New York to use their voices and hold their abusers accountable. The  
17 fight against sexual assault requires us to recognize the impact of  
18 trauma within our justice system. I am proud to sign this legislation,  
19 which is part of our collective responsibility to protect one another  
20 and create an environment that makes survivors feel safe. While our  
work is not done, eradicating sexual assault begins with our ability to  
bring the perpetrators of these heinous acts to justice and this  
legislation is a historic step forward.<sup>1</sup>

21 Senate Majority Leader Andrea Stewart-Cousins echoed this purpose:

22 For too long, our legal system has failed adult survivors and prevented  
23 them from accessing true justice. It takes time to come forward,  
24 particularly when faced with the trauma that accompanies disclosures.  
25 With the Adult Survivors Act, we are saying that we believe you and  
26 that you deserve accountability. This powerful legislation is the first

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27  
28 <sup>1</sup> Office of the Governor of New York. “Governor Hochul Signs Adult Survivors Act.” New York State, 24  
November 2022, <https://www.governor.ny.gov/news/governor-hochul-signs-adult-survivors-act>.

1 of many steps towards better supporting survivors of sexual abuse and  
2 ensuring these heinous crimes don't go unpunished.<sup>2</sup>

3 Assembly Speaker Carl Heastle emphasized:

4 The Adult Survivors Act is critical to ensuring that every survivor of  
5 sexual abuse is able to have their day in court and experience a sense  
6 of justice. This legislation builds on our previous work to deliver  
7 justice to survivors of childhood sexual abuse and sends a clear  
8 message that perpetrators will be held accountable.<sup>3</sup>

9 And State Senator Brad Hoylman, the ASA's Senate sponsor, powerfully declared:

10 Today is a watershed moment for survivor justice in the State of New  
11 York. With Governor Hochul's signature on our Adult Survivors Act,  
12 we send a powerful message to sexual abuse survivors: We hear you!  
13 We would not be here today without the courage of your convictions  
14 that propelled you to share your deeply personal stories about the  
15 sexual abuse that upended your lives and made legislative passage  
16 possible. Finally, courthouse doors across our state will be flung open  
17 so you can confront your abusers and seek the justice that was too  
18 long denied you. To the predators who for decades have benefited  
19 from New York's prohibitively short statutes of limitations, you know  
20 who you are. The Adult Survivors Act will bring you to justice and  
21 make New York a safer place for everyone.<sup>4</sup>

22 These statements were not aspirational—they were promises. Together, the CVA and ASA reflect  
23 a broader shift in New York law and policy: a recognition that trauma-informed justice requires  
24 extending the time in which survivors can safely come forward. These legislative reforms do not  
25 conflict with the VGMVPL, but rather exist alongside it, sharing the same core objective—  
26 removing procedural roadblocks that have long silenced survivors.

27 Defendant's attempt to construe these laws as somehow limiting the right of Plaintiff and  
28 other survivors to benefit from the protections provided by the VGMVPL runs directly counter to

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26 <sup>2</sup> Id.

27 <sup>3</sup> Id.

28 <sup>4</sup> Id.

1 their express purpose. To adopt that view would be to distort statutes designed to empower survivors  
 2 into tools of exclusion—an outcome the Legislature never expressed or in any way even suggested.

3 **D. The VGMVPL Revival Provision Is a Lawful Exercise of Local**  
 4 **Authority and Is Not Preempted by the CVA or ASA**

5 Under the New York State Constitution's home rule provision, local governments may adopt  
 6 laws pertaining to the "government, protection, order, conduct, safety, health and well-being of  
 7 persons or property therein," so long as those laws are not inconsistent with the state constitution or  
 8 general laws. N.Y. Const., Art. IX § 2(c)(10).

9  
 10 **1. Field Preemption Does Not Bar the VGMVPL.**

11 Field preemption exists only where the Legislature has clearly assumed exclusive control  
 12 over an entire subject area by enacting a comprehensive and detailed regulatory scheme. See Police  
 13 Benevolent Assn. of the City of New York, Inc. v. City of New York, 40 N.Y.3d 417 (2023);  
 14 Consolidated Edison Co. v. Town of Red Hook, 60 N.Y.2d 99, 105–06 (1983). Such schemes often  
 15 feature state-created administrative bodies, investigatory authority, procedural mechanisms, and  
 16 broad state oversight designed to exclude local participation. Id. New York courts have consistently  
 17 made clear that such preemption is not lightly inferred and requires more than detailed statutory  
 18 language—it requires institutional control through regulatory oversight, enforcement authority, or  
 19 administrative review. Id.

20  
 21 In Doe v. Black, the court applied this longstanding and well-established principle to the  
 22 CVA—a statute nearly identical in structure to the ASA – and held that the CVA's revival  
 23 provision—even though specific and time-bound—did not amount to the kind of comprehensive  
 24 and detailed regulatory scheme that would preempt a local statute like the VGMVPL. 2024 U.S.  
 25 Dist. LEXIS 175929, \*8-20 (S.D.N.Y. 2024), attached hereto as Exhibit C. The court emphasized  
 26 that the CVA lacked the hallmarks of comprehensive field control, including investigatory or  
 27 enforcement bodies, administrative mechanisms, or broad institutional mandates.  
 28

1 The Court in Parker v. Alexander, 2025 U.S. Dist. LEXIS 11582 (S.D.N.Y. Jan. 22, 2025),  
2 reached a contrary conclusion, finding that the ASA and CVA collectively occupied the field of  
3 sexual assault claim revival. While Judge Clarke in Black addressed only the CVA, Judge Kaplan  
4 in Parker, acknowledged that the ASA and CVA must be analyzed together when evaluating  
5 preemption. See id. at 6. This shared analytical framework reinforces that both decisions rest on a  
6 common understanding of the relevant statutory architecture—even though they diverge in outcome.

7  
8 Plaintiff respectfully submits that the outcome reached by Black court is correct and controls  
9 the result in this case. Contrary to Parker's reasoning, the mere presence of revival windows and  
10 applicability to a broad class of claims does not transform a state statute into a comprehensive  
11 regulatory scheme that could displace the City of New York's valid exercise of local authority. The  
12 ASA and CVA lack the defining features New York courts have required to infer field preemption:  
13 they do not establish enforcement bodies, impose local compliance obligations, or create procedures  
14 for administrative review. See Hertz Corp. v. City of New York, 80 N.Y.2d 565, 570–71 (1992)  
15 (rejecting field preemption where statutes did not reflect intent to regulate the entire field, despite  
16 addressing related conduct). The Court of Appeals in Hertz was clear: statutes prohibiting  
17 discriminatory practices and regulating certain fees—though detailed—were not so broad as to  
18 preclude local laws on related but distinct topics. Hertz, 80 N.Y.2d at 570. That analysis is directly  
19 applicable here. Just as the state's regulation of rental car companies in Hertz did not bar the City's  
20 law against residence-based surcharges, the ASA's narrow claim revival mechanism does not bar  
21 the VGMVPL's broader remedial framework.

22  
23 Nor does the ASA's enactment after the VGMVPL compel a different outcome. The  
24 Legislature did not amend the ASA to expressly preempt local laws, nor did it give any indication  
25 it intended to undermine the City of New York's authority in passing the VGMVPL. Courts have  
26 long held that silence from the Legislature, especially where local law exists, weighs against  
27  
28

1 preemption. See New York State Club Ass'n v. City of New York, 69 N.Y.2d 211, 221 (1987)  
2 (Legislature's failure to explicitly override local authority is strong evidence against preemption).  
3 The Black court properly recognized that the CVA (and by extension the structurally similar ASA)  
4 is a targeted, remedial statute—not a comprehensive regulatory regime. See Black, 2024 U.S. Dist.  
5 LEXIS 175929, at 15–20. As a result, the VGMVPL operates in a complementary space—advancing  
6 public protection and accountability without intruding on a field the state has claimed as exclusively  
7 its own.

8  
9 Although Parker critiqued how the Black court analogized the CVA to broader regulatory  
10 schemes like those governing alcohol, energy siting, and wage setting, the criticism overstated the  
11 analogy. See Parker, 2025 U.S. Dist. LEXIS 11582, at 10. Black never claimed that the CVA was a  
12 regulatory scheme. Rather, it demonstrated that the absence of regulatory features made it distinct  
13 from the types of statutes the Court of Appeals has deemed comprehensive for preemption purposes.  
14 Black, 2024 U.S. Dist. LEXIS 175929, at 14–19. The purpose of these comparators in Black was  
15 not to assert equivalency in complexity—it was to highlight the necessary hallmarks of field  
16 preemption: agency control, institutional oversight, and regulatory permanence. Id. at 15–18. The  
17 absence of these elements in the ASA and CVA strongly supports the conclusion that the Legislature  
18 did not intend to occupy the field.

19  
20  
21 This understanding is further supported by the views of State Senator Brad Hoylman, a lead  
22 sponsor of the CVA, who submitted an affidavit in support of the Black plaintiffs. State Senator  
23 Brad Hoylman's affidavit submitted in the Black case is attached hereto as Exhibit D, ¶¶ 7–8, 12–  
24 14. Senator Hoylman made clear that the plain language and purpose of the CVA were never  
25 intended to preempt or limit local laws like the VGMVPL. His affidavit reinforces what the statutory  
26 text and structure already make apparent: the CVA—and by extension, the ASA—were targeted,  
27 remedial statutes designed to expand, not displace, avenues for justice.  
28

## 2. Conflict Preemption Does Not Bar the VGMVPL

Conflict preemption applies only where a local law directly contradicts a state statute or undermines the Legislature's express intent. See People v. Torres, 37 N.Y.3d 256, 268 (2021).

Courts are cautioned not to read conflict preemption too broadly, as doing so "carries with it the risk of rendering the power of local governments illusory." Center for Independence of the Disabled v. Metropolitan Transp. Auth., 184 A.D.3d 197, 212 (1st Dep't 2020).

In Black, the court found that the CVA—again, a statute structurally identical to the ASA—did not expressly or impliedly bar local revival provisions, particularly where the statutes shared a common purpose: expanding access to justice for survivors. Id. at 17–20. The Black court emphasized that the CVA's language, including its "notwithstanding" clause, which is also present in the ASA, was designed to overcome limitations that existing legislation might otherwise place on the ASA—not to extinguish or limit the reach of duly enacted municipal laws. Id. at 18–19.

The Parker court found that the VGMVPL revival provision conflicted with the ASA because it opened after the ASA's one-year window began and extended beyond its close. Id. at 11–12. Relying on this temporal sequencing and the ASA's use of the phrase "notwithstanding any provision of law which imposes a period of limitation to the contrary," the court inferred that the Legislature intended to create an exclusive revival period for *any* adult survivor seeking justice in New York, regardless of the law under which they proceed. Id. at 7, 11. That interpretation, however, overreads the ASA's text. As Black correctly held, statutory phrases like "notwithstanding any other law" are routinely used to overcome procedural hurdles—not to bar municipalities from offering broader or supplementary remedies. Black, at 18. The Court of Appeals has consistently required a clear and express intent to displace local law before finding conflict preemption. See Torres, 37 N.Y.3d at 268. The ASA contains no such intent.



1 The Parker court also asserted that the VGMVPL revival window “forestalled” ASA claims  
2 by not opening until March 2023—after the ASA window began. But this mischaracterizes how  
3 overlapping statutes function. The ASA and VGMVPL serve different purposes and target different  
4 conduct. The ASA revives claims based on specific criminal sexual misconduct under Article 130  
5 of the Penal Law. The VGMVPL, by contrast, targets gender-motivated violence more broadly,  
6 including non-criminalized or uncharged acts. See N.Y.C. Admin. Code § 10-1103. The fact that  
7 Plaintiff’s claims might qualify under both does not mean the VGMVPL amendment obstructs the  
8 ASA. Importantly, the ASA’s legislative history reinforces that its intent was to expand access to  
9 justice—not restrict it. When the City Council passed the VGMVPL in 2000, it did so in response  
10 to the Supreme Court’s decision in United States v. Morrison, 529 U.S. 598 (2000), which  
11 invalidated portions of VAWA. The Council sought to preserve a civil remedy for gender-based  
12 violence within its jurisdiction. See N.Y.C. Admin. Code § 10-1102. The 2022 amendment to the  
13 VGMVPL was likewise motivated by a recognition that trauma delays disclosure, and that justice  
14 should not be denied to survivors for failing to meet arbitrary deadlines. See City of New York, L.L.  
15 21/2022 § 2.

16  
17  
18 Statements from state legislators during the ASA’s passage further reinforce that it was  
19 designed to expand access to justice, not curtail existing rights. Governor Hochul declared that the  
20 ASA was about “empowering survivors” and confronting the systemic failures that had silenced  
21 them. Similarly, Senate Majority Leader Andrea Stewart-Cousins emphasized that “it takes time to  
22 come forward,” and the ASA was a message to survivors: “we believe you.” These statements—  
23 echoed by the Speaker of the Assembly and the ASA’s sponsor—underscore a legislative  
24 philosophy focused on expanding opportunity for redress. There is no basis to interpret the ASA  
25 as extinguishing broader, parallel rights under the VGMVPL.  
26  
27  
28

Finally, the Appellate Division's decision in Engelman v. Rofo, 194 A.D.3d 26 (1st Dep't 2021), confirms the legitimacy of the VGMVPL as a distinct municipal cause of action. The court upheld the VGMVPL's statute of limitations despite state law deadlines for assault and battery claims, affirming that the law was a valid exercise of New York City's authority to address gender-based violence. Id. at 35. Though Engelman predates the 2022 revival amendment, its reasoning applies equally here. The VGMVPL, passed under the City's police power, is designed to protect residents from a unique category of civil rights harm.

Two federal courts—Doe v. Black and Parker v. Alexander—have weighed in on whether the VGMVPL revival provision is preempted. The court in Black concluded that neither field nor conflict preemption applied, based on a detailed analysis of precedent, legislative purpose, and structural features of the statutes. Parker, while acknowledging this framework, disagreed with Black on the implications of statutory sequencing and textual overlap.

This Court should adopt the better-reasoned view in Black. The ASA and CVA were enacted to create opportunities for survivors—not to extinguish local options. The VGMVPL revival provision furthers the shared goals of these statutes by enhancing access to justice and reflecting a trauma-informed understanding of delayed disclosure. It does not conflict with state law, but rather complements it. Accordingly, the Court should reject the defense's preemption arguments and allow Plaintiff's claims under the VGMVPL to proceed.

## **II. THE MOVING DEFENDANT'S MOTION TO STRIKE SHOULD BE DENIED**

### **A. Legal Standard**

Motions to strike under Federal Rule of Civil Procedure 12(f) are strongly disfavored and are rarely granted. As courts in this Circuit consistently recognize, such motions should only be allowed where there is a "strong reason for doing so." Winfield v. Citibank, N.A., No. 10 Civ. 7304 (JGK), 2012 WL 266887, at 9 (S.D.N.Y. Jan. 30, 2012), attached hereto as Exhibit E; In re Merrill



1 Lynch & Co., Inc. Research Reports Sec. Litig., 218 F.R.D. 76, 78 (S.D.N.Y. 2003) (“[G]enerally,  
2 motions to strike are viewed with disfavor and infrequently granted”).

3       The movant bears a heavy burden. To prevail, the party must demonstrate that no evidence  
4 in support of the allegations would be admissible, that the allegations are entirely irrelevant to the  
5 case, and that allowing them to remain would unduly prejudice the movant. Roe v. City of N.Y.,  
6 151 F. Supp. 2d 495, 510 (S.D.N.Y. 2001). Moreover, the Court must accept the non-moving  
7 party’s well-pleaded facts as true, draw all reasonable inferences in their favor, and resolve all  
8 doubts against striking the allegations. Diesel Props S.R.L. v. Greystone Bus. Credit II LLC, No.  
9 07 Civ. 9580 (HB), 2008 WL 4833001, at \*4 (S.D.N.Y. Nov. 5, 2008), attached as Exhibit F. As  
10 the Second Circuit has cautioned, courts “should not tamper with the pleadings unless there is a  
11 strong reason for so doing.” Lipsky v. Commonwealth United Corp., 551 F.2d 887, 893 (2d Cir.  
12 1976); see also Sloup v. Loeffler, No. 05 Civ. 1766 (JFB) (JO), 2006 WL 767869, at \*3 (E.D.N.Y.  
13 Mar. 13, 2006).

14  
15  
16               **B. The Challenged Allegations Are Admissible and Highly Relevant**

17       Defendant seeks to strike allegations concerning his own alleged pattern of sexual  
18 predation as well as coordinated conduct with others. These efforts fall far short of satisfying the  
19 stringent Rule 12(f) standard. To begin with, a plaintiff need not prove the admissibility or even  
20 ultimate relevance of allegations at the pleading stage. As Lipsky emphasized, “[o]rdinarily  
21 neither a district court nor an appellate court should decide to strike a portion of the complaint on  
22 the grounds that the material could not possibly be relevant on the sterile field of the pleadings  
23 alone.” Lipsky, 551 F.2d at 893.

24  
25       Nevertheless, the allegations here are not only facially relevant—they are potentially  
26 admissible. Federal Rule of Evidence 415 explicitly provides that in a civil case involving claims  
27 of sexual assault, “the court may admit evidence that the party committed any other sexual  
28

1 assault.” See also Carroll v. Trump, 660 F. Supp. 3d 196, 201 (S.D.N.Y. 2023). Moreover, the  
2 challenged allegations support Plaintiff’s theory that Defendant acted as part of a pattern and  
3 practice of sexual misconduct—a fact that courts in this Circuit routinely recognize as relevant to  
4 proving intent, motive, or modus operandi. See Eckhart v. Fox News Network, LLC, No. 20 Civ.  
5 5593 (RA), 2021 WL 4124616, at \*26 (S.D.N.Y. Sept. 9, 2021) (allegations of similar misconduct  
6 against others, including by anonymous witnesses, were relevant to show a pattern of behavior),  
7 attached hereto as Exhibit G.  
8

9 Defendant’s effort to exclude references to his brothers, who are not named defendants, is  
10 also misplaced. These allegations are probative of the overall pattern and context of abuse  
11 described in the complaint. They help explain how Defendant allegedly operated, who enabled or  
12 collaborated with him, and how power was used to silence victims. Given the public and well-  
13 documented nature of these accusations, their inclusion in the pleading is neither scandalous nor  
14 unfairly prejudicial.  
15

16 Finally, Defendant has not shown—nor can he—that the inclusion of these allegations  
17 would cause undue prejudice. The potential for discomfort or reputational harm is not, by itself, a  
18 basis for striking relevant material from a civil rights complaint—particularly where the  
19 allegations are central to Plaintiff’s theory of liability. In balancing the probative value of the  
20 statements the Defendant seeks to have stricken and the potential prejudice to the Defendant, the  
21 Plaintiff fails to see any prejudice that arises from statements with respect to his brothers who, as  
22 is widely documented, have been accused by a litany of women of coordinated sexual predation.  
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### 25 CONCLUSION

26 For the reasons stated herein, the Plaintiff respectfully requests that this Honorable Court  
27 deny the Moving Defendant’s Motion in its entirety.  
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Dated: April 14, 2025

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RESPECTFULLY SUBMITTED:



**GRUENBERG KELLY DELLA**

Michael DellaUniversita, Esq.  
700 Koehler Avenue  
Ronkonkoma, New York 11779  
631-737-4110

*Counsel for Plaintiff*